

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ELIZABETH STARKEY,

Plaintiffs

vs.

FIRSTSOURCE ADVANTAGE, LLC,
a/k/a ACCOUNT SOLUTIONS GROUP, LLC
d/b/a ASG

Defendant

Civil Action No.: 1:07-cv-00662

**ANSWER TO COMPLAINT
AND AFFIRMATIVE
DEFENSES**

The defendant, FIRSTSOAUARCE ADVANTAGE, LLC, a/k/a ACCOUNT SOLUTIONS GROUP, LLC d/b/a ASG, by its attorneys Colucci & Gallaher, P.C., responds as follows, upon information and belief, to the plaintiff's complaint.

1. Admit the allegations contained in paragraphs 18, 19 and 20 of plaintiff's complaint.
2. Deny knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 2, 3, 4, 5, 21, 22 and 24 of the plaintiff's complaint.
3. Deny the allegations contained in paragraphs 1, 23, 25, 27, 27A, 27B, 28, 30, 31, 32, 33, 34, 35, 36, 37 and 37A of the plaintiff's complaint.
4. In answering paragraph 26 and 29 of the plaintiff's complaint, this answering defendant repeats and realleges each and every admission or denial of the allegations contained in the foregoing paragraphs referred to therein, with the same force and effect as though fully set forth herein.
5. Deny each and every other allegation not already responded to above.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

6. The complaint herein fails to state a cause of action upon which relief may be granted.

AS AND FOR SECOND AFFIRMATIVE DEFENSE

7. The allegations contained in plaintiff's complaint caused and/or contributed to by a bona fide error created by the defendant despite having appropriate safeguards in place to prevent such error.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

8. The amounts owed by plaintiff on the underlying debt should be treated as an offset for any amount awarded to plaintiff as a result of this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

9. All actions or activities undertaken by the defendant in connection with enforcement in collection with the underlying debt were done in complete compliance of all applicable statutes and regulations.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

10. The telephone numbers called by defendants in connection with attempting to collect the underlying debt were provided by plaintiff and/or the underlying debtor and therefore express consent was given by the plaintiff and/or underlying debtor for calls to be made to that telephone number.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

11. Any and all damages and/or injuries alleged to have been sustained by the plaintiff were caused and/or contributed to by other unrelated factors or events and/or plaintiff's own contributory conduct and actions.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

12. Any damages and/or injuries allegedly sustained by plaintiff in this matter were contributed to and/or caused by plaintiff's own conduct and activities and therefore any damages awarded to plaintiff should be diminished by that percentage of fault attributable to plaintiff.

WHEREFORE, the defendant, FIRSTSOURCE ADVANTAGE, LLC, a/k/a ACCOUNT SOLUTIONS GROUP, LL d/b/a ASG, demands judgment dismissing the plaintiff's Complaint together with the costs and disbursements of this action.

DATED: Buffalo, New York
March 7, 2008

COLUCCI & GALLAHER, P.C.

/s/Todd C. Bushway
Todd C. Bushway
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VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF ERIE)

Todd C. Bushway, being duly sworn, deposes and says that he is a member of the law firm of Colucci & Gallaher, P.C., attorneys for the defendant, Firstsource Advantage, LLC, a/k/a Account Solutions Group, LLC d/b/a ASG, herein; that he has read the foregoing answer and he knows the contents thereof; that the same is true to deponent's knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matter he believes same to be true. This verification is being made pursuant to CPLR §3020(d)(3) since all the material allegations of this pleading are within the personal knowledge of your deponent.

The sources of deponent's information and the grounds for this belief are the file materials for this case in deponent's office.

/s/ Todd C. Bushway
Todd C. Bushway

Sworn to before me this
7th day of March, 2008.

/s/ Barbara A. Urban
Notary Public, State of New York
Qualified in Erie County
My Commissions Expires August 14, 2009